



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OEI-2013-0803; FRL 9907-40-OEI]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Proposed Collection; Toxic Chemical Release Reporting; Request for Comments on Proposed Renewal of Form R and Form A

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency plans to submit a request to renew an existing approved Information Collection Request (ICR), “Toxic Chemical Release Reporting; Request for Comments on Proposed Renewal of Form R and Form A” to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The current ICR expires on October 31, 2014. Before submitting a request to renew this ICR, EPA is soliciting public comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before [insert date 60 days after publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. **EPA-HQ-OEI-2013-0803**, by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *Email*: oei.docket@epa.gov.
- *Fax*: 202-566-0715.
- *Mail*: Office of Environmental Information (OEI) Docket, U.S. Environmental

Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

- *Hand Delivery:* Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the docket's normal hours of operations, 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OEI-2013-0803. EPA's policy is that all comments received will be included in the public docket without change and made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or email. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption and must be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

FOR FURTHER INFORMATION CONTACT: Cassandra Vail, Toxics Release Inventory Program Division, Office of Information Analysis and Access (2844T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number, 202-566-0753; email address, vail.cassandra@epa.gov.

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for the ICR described in this notice under Docket ID No. EPA-HQ-OEI-2013-0803, which is available for on-line viewing at www.regulations.gov. Go to www.regulations.gov to obtain a copy of the proposed collection of information, to submit or view public comments, to obtain an index of the docket contents, and to obtain those documents in the public docket that are available electronically. Once in the system, select "search," then enter the docket ID number identified in this document.

The docket is also available for viewing in person at the OEI Docket, EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

In Which Information Is EPA Particularly Interested?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA solicits comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of

appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA requests comments from very small businesses (those with fewer than 25 employees) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples;
2. Describe any assumptions that you used;
3. Provide copies of any technical information and/or data you used that support your views;
4. If you provide estimates of potential burden hours or labor costs, explain how you arrived at your estimates;
5. Offer alternative ways to improve the collection activity;
6. Make sure to submit your comments by the deadline identified under Dates; and
7. To ensure proper receipt by EPA, identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and Federal Register citation.

What Information Collection Activity or ICR Does This Apply to?

Affected Entities: This ICR applies to facilities that submit annual reports under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and section 6607 of the Pollution Prevention Act (PPA). The applicability criteria are outlined in part 372, subpart B, of Title 40 of the Code Federal Regulations, and potentially affected categories and entities may include, but are not limited to the following:

Category	Examples of Potentially Affected Entities
Industry	<p>Facilities included in the following NAICS manufacturing codes (corresponding to SIC codes 20 through 39): 311*, 312*, 313*, 314*, 315*, 316, 321, 322, 323*, 324, 325*, 326*, 327, 331, 332, 333, 334*, 335*, 336, 337*, 339*, 111998*, 211112*, 212324*, 212325*, 212393*, 212399*, 488390*, 511110, 511120, 511130, 511140*, 511191, 511199, 512220, 512230*, 519130*, 541712*, or 811490*.</p> <p>*Exceptions and/or limitations exist for these NAICS codes.</p> <p>Facilities included in the following NAICS codes (corresponding to SIC codes other than SIC codes 20 through 39): 212111, 212112, 212113 (correspond to SIC 12, Coal Mining (except 1241)); or 212221, 212222, 212231, 212234, 212299 (correspond to SIC 10, Metal Mining (except 1011, 1081, and 1094)); or 221111, 221112, 221113, 221118, 221121, 221122, 221330 (Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce) (correspond to SIC 4911, 4931, and 4939, Electric Utilities); or 424690, 425110, 425120 (Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified); or 424710 (corresponds to SIC 5171, Petroleum Bulk Terminals and Plants); or 562112 (Limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC 7389, Business Services, NEC)); or 562211, 562212, 562213, 562219, 562920 (Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 et seq.) (correspond to SIC 4953, Refuse Systems).</p>
Federal Government	Federal facilities

If you have questions regarding the applicability of this action to a particular entity, consult the individual listed in the preceding FOR FURTHER INFORMATION CONTACT section.

Title: Toxic Chemical Release Reporting; Request for Comments on Proposed Renewal of Form R and Form A.

ICR Number: EPA ICR No. 1363.23, TRI Form R and TRI Form A Certification Statement, OMB Control No. 2025-0009.

ICR Status: The ICR for the TRI Form R and the TRI Form A Certification Statement is scheduled to expire on October 31, 2014.

Abstract: Pursuant to section 313 of EPCRA, certain facilities that manufacture, process, or

otherwise use specified toxic chemicals in amounts above reporting threshold levels must submit annually to EPA and to designated State or Tribal officials toxic chemical release forms containing information specified by EPA. 42 U.S.C. 11023. In addition, pursuant to section 6607 of the Pollution Prevention Act (PPA), facilities reporting under section 313 of EPCRA must also report pollution prevention and waste management data, including recycling information, for such chemicals. 42 U.S.C. 13106. EPA compiles and stores these reports in a publicly accessible database known as the Toxics Release Inventory (TRI).

Regulations at 40 CFR part 372, subpart B, require facilities that meet all of the following criteria to report:

1. The facility has 10 or more full-time employee equivalents (i.e., a total of 20,000 hours worked per year or greater; see 40 CFR 372.3); and
2. The facility is included in a North American Industry Classification System (NAICS) Code listed at 40 CFR 372.23 or under Executive Order 13148, federal facilities regardless of their industry classification; and
3. The facility manufactures (defined to include importing), processes, or otherwise uses any EPCRA section 313 (TRI) chemical in quantities greater than the established thresholds for the specific chemical in the course of a calendar year.

Facilities that meet the criteria must file a Form R report or, in some cases, may submit a Form A Certification Statement, for each listed toxic chemical for which the criteria are met. As specified in EPCRA section 313(a), facilities must submit report(s) for any calendar year on or before July 1 of the following year. For example, reporting year 2012 data should have been submitted and certified on or before July 1, 2013.

EPA maintains the list of toxic chemicals subject to TRI reporting at 40 CFR 372.65 and the Agency publishes this list each year as Table II in the Toxics Release Inventory

Reporting Forms and Instructions. The current TRI chemical list contains 594 chemicals and 30 chemical categories.

Environmental agencies, industry, and the public use TRI data for a wide variety of purposes. EPA program offices use TRI data, along with other data, to help establish programmatic priorities, evaluate potential hazards to human health and the natural environment, and undertake appropriate regulatory and/or enforcement activities. Environmental and public interest groups use the data to better understand toxic chemical releases at the community level and to work with industry, government agencies, and others to promote reductions in toxic chemical releases. Industrial facilities use the TRI data to evaluate the efficiency of their production processes and to help track and communicate their progress in achieving pollution prevention goals.

The TRI data are unique in providing a multi-media (air, water, and land) picture of toxic chemical releases, transfers, and other waste management activities by covered facilities on a yearly basis. While other environmental media programs provide some toxic chemical data and related permit data, TRI data are unique with regard to the types of chemicals and industry sectors covered as well as the frequency of reporting. Facilities subject to TRI reporting must submit reports for each calendar year to EPA and the State or Indian Country in which they are located by July 1 of the following year.

Respondents may claim trade secrecy for a chemical's identity as described in EPCRA Section 322 and its implementing regulations in 40 CFR part 350. EPA will disclose information covered by a claim of trade secrecy only to the extent permitted by and in accordance with the procedures in 40 CFR part 350 and 40 CFR part 2.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB

control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: EPA estimates average annual public reporting and recordkeeping burden for this collection of information to be approximately 35.71 hours for Form R and approximately 21.96 hours for a Form A. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting/validating/verifying information, processing and maintaining information, and disclosing and providing information; adjust existing ways to comply with any previously applicable instructions and requirements that have subsequently changed; train personnel to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR Supporting Statement provides a detailed explanation of the Agency's estimate for TRI program burden, including Form R/A burden. Below is a brief summary of the burden estimated for annual TRI reporting:

- Estimated total number of respondents (i.e., facilities): 21,025
- Frequency of response: annual
- Estimated total average number of responses: 74,869
- Estimated total average number of responses for each respondent: 3.56
- Estimated total annual burden hours: 3,555,998 hours
- Estimated total annual costs: \$183,418,377

What Changes Does this ICR Propose?

OMB approved the ICR for Form R and for the Form A Certification Statement on October 14, 2011, with the original expiration date of October 31, 2014. The OMB approved burden numbers are 3,327,436 hours for Form R and 195,300 hours for Form A for a total of 3,522,736 hours. Change in burden estimates since OMB approved of the combined Form R/A ICR on October 14, 2011, include:

- the lifting of the Administrative Stay of the Toxics Release Inventory reporting requirements for hydrogen sulfide on October 17, 2011. EPA received the first submissions for hydrogen sulfide for reporting year 2012; the total number of form submissions used to calculate the overall program burden therefore includes these hydrogen sulfide submissions.
- the addition of o-Nitrotoluene Rule, which the Federal Register included in its publication on November 7, 2013. EPA estimates this rule will increase the number of newly reporting facilities by 1 and the total number of Form Rs and Form As submitted by 17 and 5 respectively, with an associated ongoing steady state burden increase of 717 hours.

Over the last few years, the number of facilities reporting to TRI increased slightly. Based on the latest data for RY 2012 with updates to reflect the estimated burden due to the addition of o-Nitrotoluene, EPA now estimates the total number of combined Form R and Form A responses to be 74,869, the associated total annual burden hours to be 3,555,998, and the annual cost to be \$183,418,377. For a detailed explanation of the Agency's estimates of the respondent reporting burden and labor costs, please refer to the proposed TRI Form R and A Supporting Statement which are available in the docket.

EPA proposes making several changes to the TRI reporting forms and associated instructions, however, these changes are estimated to have a negligible effect on form unit burden. The proposed changes, which are outlined below, are designed to enhance the overall utility of the data collected under the TRI Program.

1. Add an optional extension to all phone numbers which would allow facilities to ensure that incoming calls are directed to the appropriate person.
2. Add an optional field to allow facilities to indicate the section of a water body that received the surface water discharge. Specifically, facilities could provide a reach code, which is a unique identifier for a linear, unbranched section of a water body. (Part II: Sec. 5.3). *Rationale:* Linking TRI discharges to a reach code (a unique identifier for a linear, unbranched section of a water body) provides regulatory agencies and researchers the ability to model the potential impact of TRI chemicals to downstream and intermediate receiving waterbodies and water resources, and to assess the potential cumulative environmental impacts of TRI chemical releases to surface waters. While optional, this field would populate automatically when selecting their receiving water body in the TRI-MEweb user interface for this section.
3. EPA proposes moving the header “5.5 Disposal to land on-site” to precede Sections 5.4 and 5.5 on Form R so that it covers both 5.4 and 5.5. Furthermore, EPA proposes rewording 5.4.1 and 5.4.2 to fit under the new header as follows: Section 5.4-5.5: Disposal to land on-site, Section 5.4.1: Class 1 Underground Injection Wells, Section 5.4.2 Class II-V Underground Injection Wells. The remaining sections of Section 5.5 are unchanged. *Rationale:* This change clarifies that releases to underground injection wells are considered releases to land.

4. Provide the heading, “Production-related waste managed” for Sections 8.1-8.7 and re-label Section 8.8 “Non-production-related waste managed,” with a footnote indicating that this Section “includes quantities released to the environment or transferred off-site as a result of remedial actions, catastrophic events, or other one-time events not associated with production processes (Part II: Sec. 8.1-8.8). *Rationale:* Re-labeling these Sections clearly indicates what quantities facilities must report in them and makes it easier for TRI data users to refer to these Sections in a concise and consistent manner.
5. Add checkboxes to indicate whether a facility has provided a “Production Ratio” or an “Activity Ratio” (Part II: Sec. 8.9). *Rationale:* Facilities are required to submit a ratio of either production or an activity other than production for the purposes of normalizing year-to-year changes in TRI chemical quantities, but TRI data users currently cannot determine which type of ratio was used.
6. Add a new column where facilities can provide an optional percentage range indicating the estimated annual reduction in chemical waste generation associated with a given source reduction activity (Part II: Sec. 8.10). *Rationale:* This change makes it easier to report and assess the effectiveness of different types of source reduction activities and thus promote the adoption and recognition of successful pollution prevention practices.
7. Provide optional barrier codes that facilities can use in Section 8.11 to indicate why they could not implement any source reduction activities during the reporting year. (Part II: Sec. 8.11). *Rationale:* Facilities are required to pick a code if they perform a new source reduction activity. However, there is currently no way for a facility to indicate why they didn’t implement a source reduction activity. While these codes would be optional, they would allow EPA to assist facilities in overcoming barriers to implementing source reduction activities.

8. Allow facilities to categorize optional free-text information entered in Sections 8.11 and 9.1 by selecting from a list of topics provided in TRI-MEweb (no changes to Form R itself). *Rationale:* Letting facilities flag their free-text entries as relevant to certain commonly-used topics would improve TRI tools that display free-text information, data quality efforts, and the overall analytical utility of the dataset.

Additionally, the EPA proposes modifying TRI-MEweb to collect, as optional, information that some facilities have historically provided, unsolicited, to EPA on matters related to TRI (collectively called miscellaneous TRI documents). Examples of these miscellaneous TRI documents include updates to contact and location information for the facility and reasons for non-reporting. Some of this information is useful to the Agency and could be useful to the public. Currently, the EPA receives this unsolicited information on paper.

This proposed modification would allow for an online means for the EPA to receive miscellaneous documents, reducing the cost of processing their submission and aligning how EPA processes such documents with the recent requirement to submit TRI reporting forms electronically. In other words, with this change, facilities could use TRI-MEweb to provide details on specific categories of information that they have been providing on a voluntary basis to the EPA throughout the existence of the program (e.g., supplemental information on updates to the facility's name, status, location, and/or parent company; supplemental information on updates on whom to contact for technical and/or public matters; and reasons for not reporting (indicating the facility did not meet thresholds or did not report for any other appropriate reason)). Receipt and processing of this information would not affect any reporting forms certified and submitted to the agency, but rather would allow facilities to provide an electronic means to submit contextual information concerning their facilities that can enhance the context

of TRI data for the EPA as well as for the public.

What Is the Next Step in the Process for These ICRs?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another Federal Register notice for the ICR pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the individual listed under FOR FURTHER INFORMATION CONTACT.

Dated: February 24, 2014

Arnold Layne, Director,

Office of Information Analysis and Access

Office of Environmental Information.

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